

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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RUBY JEAN MAY, KELVIN DAVIS, and )  
ROBERT SPEARS, )

Plaintiffs, )

vs. )

CITY OF RENO, JERRY HOOVER, RPD )  
SGT. WALTER FRAZIER, RPD OFF. PAUL )  
ADAMSON, CITY OF SPARKS, SPD OFF. )  
SCOTT TRACY, and SPD OFF. PETE )  
KRALL, )

Defendant. )

3:04-cv-00087-LRH (RAM)

ORDER

Before the court is the Sparks Defendants' Motion for Order Requiring Bond for Costs on Appeal (#160<sup>1</sup>). Plaintiffs have filed an opposition (#161) to which the Sparks Defendants have replied (#163).

Federal Rule of Appellate Procedure 7 provides that the district court "may require an appellant to file a bond or provide other security in any form and amount necessary to ensure payment of costs on appeal." The requiring of a bond is wholly within the court's discretion.

The Sparks Defendants have requested a bond in the amount of One Thousand Two Hundred Fifty Dollars (\$1,250) based on the belief that Plaintiffs' appeal is frivolous and that Plaintiffs' actions evince an intent to retaliate against police officers for lawful actions. While the court sees little merit to Plaintiffs' appeal, the Sparks Defendants have not provided sufficient evidence or argument to demonstrate to the court that an appeal is wholly frivolous. Further, the

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<sup>1</sup> References to (#XX) refer to the court's docket.

1 court understands that Plaintiffs feel wronged by the actions taken against them and does not see  
2 this matter as one of retaliation. Accordingly, and given the low projected costs sought to be  
3 protected by bond, the court concludes that a security upon appeal is not necessary in this  
4 instance.

5 Finally, the court notes Plaintiffs' argument that the pending motion is frivolous and that  
6 sanctions should be considered. The court has reviewed the case law surrounding which costs  
7 could be included in the bond amount and finds that the Sparks Defendants have brought the  
8 pending motion with a good faith belief that their request could be granted. As such, sanctions  
9 are inappropriate.

10 It is therefore ORDERED that the Sparks Defendants' Motion for Order Requiring Bond  
11 for Costs on Appeal (#160) is DENIED.

12 DATED this 11<sup>th</sup> day of April, 2007.

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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE